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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,121	11/13/2003	Andrew Paul Burgess	52743-012004	7680
7590	04/20/2004		EXAMINER	STERLING, AMY JO
Margaret M. Duncan McDermott, Will & Emery 227 West Monroe Chicago, IL 60606-5096			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/712,121	BURGESS, ANDREW PAUL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Amy J. Sterling	3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 13 November 2003.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-17 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 13 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 2/23/04.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This is the first Office Action for application number 10/712,121, Deck Mounting Bracket, filed on 11/13/04. Claims 1-17 are pending.

### ***Information Disclosure Statement***

The information disclosure statement submitted on 12/15/02 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 8-12 stand rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 1920520 to Nord.

The patent to Nord (Fig. 1) discloses a mounting bracket with a separating flange (11), a joist-fastening portion (13) connected to the separating flange (11), the joist-fastening portion (13) which extends from the separating flange at an angle of approximately 90° and has a hole (14) therein for receiving a fastener for fastening the mounting bracket to the joist, a support flange (15) connected to the joist-fastening

portion (13) and extends away from the joist-fastening portion at an angle, which also has an aligned hole (17) therein corresponding to the hole in the joist-fastening portion, and a plank-fastening portion (10) connected to the support flange with a hole (12) therein for receiving a fastener for fastening the mounting bracket to the plank. Nord discloses wherein the separating flange (11) and the plank-fastening portion (10) are substantially co-planar and the fasteners include a screw or nail or other means. (Col. 2, line 64).

Claims 15-17 stand rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 5775048 to Leavens.

The patent to Leavens teaches the method of securing a plank to a joist which has the steps of, providing a mounting bracket having a first portion (22), a second portion (42) and a third portion (46), the second portion (42) being positioned between the first and third portions, placing the first portion (22) of the mounting bracket between a top surface of the joist (90) and a plank (96) and securing the second portion of the mounted bracket to a side surface of the joist (90) and securing the third portion (46) of the mounting bracket to the plank (96), wherein the second portion is secured to the side surface of the joist with a fastener (44) and the third portion is secured with a fastener (80).

Claims 1, 4, 5, 7, 8 stand rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 2990590 to Graveley.

The patent to Gravely discloses a mounting bracket with a separating flange (22), a joist-fastening portion (26) connected to the separating flange (22), the joist-fastening

portion (26) has a hole (28) therein for receiving a fastener for fastening the mounting bracket to the joist, a support flange (21, 23, 25) connected to the joist-fastening portion (26) and extending away at an approximate 35 degree angle (angel between 25 and 26), the support flange (21, 23, 25) having an aligned hole (28) therein corresponding to the hole in the joist-fastening portion, and a plank-fastening portion (22) connected to the support flange with a hole (27) therein for receiving a fastener for fastening the mounting bracket to the plank.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent No. 2990590 to Graveley as applied to claims 8 above, and in view of United States Patent No. 5775048 to Orchard.

Graveley discloses applicant's basic inventive concept, all the elements which are shown above with the exception of a curved spacer between the plank-securing flange and the support flange.

Orchard shows a curved washer used as a spacer. (Col. 3, lines 18-20) used to allow for thermal expansion and contraction. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the

teachings of Orchard to add this feature to the bracket of Graveley in order to accommodate thermal expansion of the joists.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following documents show various angled brackets

6698971 to Wilhelmi shows a joist bracket

6015123 to Perez shows a corner bracket

5170977 to McMillan shows a corner bracket

5497593 to Riesberg shows a bracket for perpendicular members

4964253 to Loeffler shows a joist bracket

4727815 to Miller shows a corner bracket

4527375 to Braginetz shows a bracket

4359851 to Daniels shows a deck bracket

4260277 to Daniels shows a bracket

40834588 to Young shows a bracket for perpendicular members

1562784 to Olsen shows a bracket

844459 to McCausland shows a bracket with apertures for fasteners

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 703-308-3271. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine number for the Technology center is 703-872-9306 (formal amendments) or 703-308-3519 (informal amendments/communications).

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 703-308-2168.

  
AJS  
Amy J. Sterling  
4/13/04

  
LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER